

Title	Trial Court Public Access Rule (adopt rule 6.620 of the California Rules of Court)
Summary	The proposed rule 6.620 would increase meaningful public access to administrative decisions by trial courts.
Source	Staff
Staff	Michael A. Fischer, Senior Attorney (415) 865-7685 (michael.fischer@jud.ca.gov)
Discussion	<p><i>Background</i></p> <p>Stats. 2003, ch. 367 (Sen. Bill No 144 (Escutia)) added section 68511.6 to the Government Code to require the Judicial Council to adopt:</p> <p style="padding-left: 40px;">Appropriate rules providing for notice to the public and for public input to decisions concerning administrative and financial functions of a trial court, including, but not limited to, decisions relating to the budget of the trial court prior to submittal to the Judicial Council and subsequent to budget approval.</p> <p>The provision also requires:</p> <p style="padding-left: 40px;">Appropriate rules requiring trial courts to give notice to the public of other appropriate decisions concerning the administrative and financial functions of the trial courts.</p> <p>The legislation states the rules “do not apply to the judicial or adjudicative functions of the trial courts or to the assignment of judges.”</p> <p>This bill arose out of concerns about public access and involvement in decisions now being made in the judicial branch that were formerly made by the counties.</p> <p>This shift in responsibility has resulted primarily from the 1998 legislation that changed the primary responsibility for funding the trial courts from the county to the state. At the same time, primary responsibility for managing the funding for the trial courts shifted from the county to the courts and the Judicial Council. (Lockyer-Isenberg Trial Court Funding Act of 1997 (Stats. 1997, ch. 850 (Assem. Bill No.</p>

233 (Escutia))).

This rule has been developed through a working group of trial court presiding judges and court executive officers. The working group developed the rule in consultation with representatives of court employee organizations. The rule concerns access to and input about major court decisions affecting the public, such as closure of a court location or a large contract. It is drawn to balance the public interest in major administrative decisions and the need for trial courts to maintain effective operations. It does not affect the trial courts' discretion to make these decisions.

#### *Public input*

The proposed rule would require that a trial court seek public input on specified decisions that are likely to have a significant impact on the public. Under the rule, input must be sought prior to:

- Recommending to the Judicial Council the items to be included in the judicial branch budget;
- Requesting permission from the AOC to reallocate budget funds in an amount greater than \$400,000 or ten percent of the trial court's budget allocation, whichever is greater;
- Executing a contract without competitive bidding in an amount greater than \$400,000 or ten percent of the trial court's budget allocation, whichever is greater;
- Closing, on a regular basis, a court location for one day a week or more than one-third the number of hours the location was previously open; or
- Closing the Family Law Facilitator or Family Law Information Center at a court location.

If a trial court plans to respond to the annual request of the Judicial Branch Budget Advisory Committee concerning which items should be statewide budget priorities, it must provide notice that it is planning to make recommendations and state that interested parties may also make recommendations on this subject.

Public input would be sought on 15 court days notice, primarily by electronic means, either through the court's web site or email. Notice

would be given by posting on the court's web site and court locations, and by sending it to any of the following on request:

- news media in the county on request;
- bar representatives in the county on request;
- trial court employee organizations on request;
- county officials; and
- others who have requested notice electronically.

Written factual materials that have been gathered specifically for the consideration of the person or entity making the decision would also be made available to the public.

#### *Public Notice*

A trial court would also have to provide public notice, within 15 court days, of the following:

- Receipt of the annual allocation of trial court funding from the Judicial Council;
- Awarding of a grant to the court that exceeds \$400,000 or 10% of the trial court's budget allocation, whichever is greater;
- Solicitation of a proposal or the execution of a contract that exceeds \$400,000 or 10% of the trial court's budget allocation, whichever is greater;
- A significant permanent increase or decrease in the number of hours a trial court location is open; and
- The action taken on any item for which public input was required.

---

#### Attachments

Rule 6.620 of the California Rules of Court will be adopted effective immediately to read:

**Rule 6.620 Public access to administrative decisions of trial courts.**

**(a) [Interpretation]** The provisions of this rule concern public access to administrative decisions by trial courts as provided in this rule. This rule does not modify existing law regarding public access to the judicial deliberative process, and does not apply to the adjudicative functions of the trial courts or the assignment of judges.

**(b) [Budget priorities]** The Judicial Branch Budget Advisory Committee may request, on 30 court days notice, recommendations from the trial courts concerning judicial branch budget priorities. The notice must state that if a trial court is to make recommendations to the Committee, the trial court must also give notice, as provided in subdivision (g), that interested parties may send public input to the Judicial Branch Budget Advisory Committee.

**(c) [Budget requests]** Prior to making recommendations, if any, to the Judicial Council on items to be included in the judicial branch budget annually submitted to the Governor and the Legislature, a trial court must seek input from the public, as provided in subdivision (e), on what should be included in the recommendations.

**(d) [Other decisions requiring public input]** Each trial court must seek input from the public, as provided in subdivision (e), prior to making the following decisions:

(1) A request for permission from the Administrative Office of the Courts to reallocate budget funds from one program component to another in an amount greater than \$400,000 or ten percent of the trial court's budget allocation, whichever is greater.

(2) The execution of a contract without competitive bidding in an amount greater than \$400,000 or ten percent of the trial court's budget allocation, whichever is greater.

(3) The planned, permanent, closure of any court location for an entire day or for more than one-third of the hours the court location was previously open for either court sessions or filing of papers. As used in this subdivision, planned closure does not include closure of a location on a

1                    temporary basis for reasons including but not limited to holidays, illness  
2                    or other unforeseen lack of personnel or public safety.

3  
4                    (4) The cessation of any of the following services at a court location: (i) The  
5                    Family Law Facilitator; or (ii) the Family Law Information Center.

6  
7                    **(e) [Manner of seeking public input]** When a trial court is required to seek public  
8                    input under this rule, it must provide public notice of the request at least 15  
9                    court days prior to the date the decision is to be made or the action is to be  
10                   taken. Notice must be given as provided in subdivision (g). Any interested  
11                   person or entity who wishes to provide comment must provide the comment in  
12                   writing or electronically to the court unless the court requires that all public  
13                   comment be sent either by email or through a response system on the court's  
14                   web site. For good cause, in the event an urgent action is required, a trial court  
15                   may take immediate action if it (1) provides notice of the action as provided in  
16                   subdivision (f), (2) states the urgent reasons, and (3) provides any public input  
17                   received to the person or entity making the decision.

18  
19                   **(f) [Information about other trial court administrative matters]** A trial court  
20                   must provide notice not later than 15 court days after the event, of the  
21                   following:

22  
23                   (1) Receipt of the annual allocation of the trial court budget from the Judicial  
24                   Council after enactment of the budget act.

25  
26                   (2) The awarding of a grant to the trial court that exceeds the greater of  
27                   \$400,000 or 10% of the trial court's budget allocation.

28  
29                   (3) The solicitation of proposals or the execution of a contract that exceeds  
30                   the greater of \$400,000 or 10% of the trial court's budget allocation.

31  
32                   (4) A significant permanent increase in the number of hours that a court  
33                   location is open during any day for either court sessions or filing of  
34                   papers. As used in this subdivision, a significant increase does not  
35                   include an emergency or one-time need to increase hours.

36  
37                   (5) A significant permanent decrease in the number of hours that a court  
38                   location is open during any day for either court sessions or filing of  
39                   papers, except those governed by subdivision (d)(3). As used in this  
40                   subdivision, a significant decrease does not include a decrease in response

1 to an emergency need to close a location on a temporary basis for reasons  
2 including, but not limited to, illness or other unforeseen lack of personnel  
3 or public safety.

4  
5 (6) The action taken on any item for which input from the public was required  
6 under subdivision (d). The notice must show the person or persons who  
7 made the decision and a summary of the written and email input received.  
8

9 **(g) [Notice]** When notice is required to be given by this rule, it must be given in  
10 the following ways:

11  
12 (1) Posted on the trial court's web site, if any;

13  
14 (2) Sent to any of the following persons or entities, subject to the  
15 requirements of subdivision (h), who have requested in writing or by  
16 electronic mail to the court executive officer to receive such notice:

17  
18 (i) A newspaper, radio station, and television station in the county;

19  
20 (ii) The president of a local or specialty bar association in the county;

21  
22 (iii) Representatives of a trial court employees organization;

23  
24 (iv) The District Attorney, Public Defender, and County Counsel;

25  
26 (v) The County Administrative Officer; and

27  
28 (vi) If the court is sending notice electronically using the provisions of  
29 subdivision (h), any other person or entity that submits an electronic  
30 mail address to which the notice will be sent.

31  
32 (3) Posted at all locations of the court that accept papers for filing.  
33

34 **(h) [Electronic notice]** A trial court may require a person or entity otherwise  
35 entitled to receive notice under subdivision (g)(2) to submit an electronic mail  
36 address to which the notice will be sent.  
37

38 **(i) [Materials]** When a trial court is required to seek public input under  
39 subdivision (b), (c), or (d), it must also provide for public viewing at one or  
40 more locations in the county of any written factual materials that have been  
41 specifically gathered or prepared for the review at the time of making the

1 decision of the person or entity making the decision. This subdivision does not  
2 require the disclosure of materials that are otherwise exempt from disclosure or  
3 would be exempt from disclosure under the state Public Records Act  
4 (beginning with section 6250 of the Government Code). The materials must be  
5 mailed or otherwise be made available not less than five court days before the  
6 decision is to be made except if the request is made within the five court days  
7 before the decision is to be made, the materials must be mailed or otherwise be  
8 made available the next court day after the request is made. A court must  
9 either (1) provide copies to a person or entity that requests copies of these  
10 materials in writing or electronic mail to the Executive Officer of the court or  
11 other person designated by the Executive Office in the notice, if the requesting  
12 person or entity pays all mailing and copying costs as determined by any  
13 mailing and copy cost recovery policies established by the trial court or (2)  
14 make all materials available electronically either on its website or by email.  
15 This subdivision does not require the trial court to prepare reports. A person  
16 seeking documents may request the court to hold the material for pick up by  
17 that person in lieu of mailing.  
18

19 **(j) [Other requirements]** This rule does not affect any other obligations of the  
20 trial court including, but not limited to, any obligation to meet and confer with  
21 designated employee representatives. This rule does not change the procedures  
22 a court must otherwise follow in entering into a contract nor change the types  
23 of matters for which a court may contract.  
24

25 **(k)** This rule may be enforced under Code of Civil Procedure section 1085.  
26

**Senate Bill No. 144**

**CHAPTER 367**

An act to add Section 68511.6 to the Government Code, relating to courts.

[Approved by Governor September 11, 2003. Filed  
with Secretary of State September 12, 2003.]

LEGISLATIVE COUNSEL'S DIGEST

SB 144, Escutia. Judicial Council: trial court meetings. Existing law requires the Judicial Council to undertake studies and adopt rules relating to the administration of the trial courts. This bill would require the Judicial Council to adopt rules concerning the administrative and financial functions of a trial court and requiring trial courts to give notice to the public of decisions concerning those functions.

*The people of the State of California do enact as follows:*

SECTION 1. Section 68511.6 is added to the Government Code, to read:

68511.6. The Judicial Council shall adopt appropriate rules providing for notice to the public and for public input to decisions concerning administrative and financial functions of a trial court, including, but not limited to, decisions relating to the budget of the trial court prior to submittal to the Judicial Council and subsequent to budget approval. The Judicial Council shall also adopt appropriate rules requiring trial courts to give notice to the public of other appropriate decisions concerning the administrative and financial functions of the trial courts. The provisions of this section do not apply to the judicial or adjudicative functions of the trial courts or to the assignment of judges.

O